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EXAMINER

SHERKAT, AREZOO

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,421

Applicant(s)

LAROSE, GORDON EDWARD

Examiner

Arezoo Sherkat

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-43 have been presented for examination.

Claim Objections

Claim 22 is objected to because of the following informalities: "Incorrect dependency"

Appropriate correction is required.

Claim 40 is objected to because of the following informalities: "Incorrect Grammar".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 7, 9-16, 20-21, 23-25, 27-29, 33-37, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beery, (U.S. Publication No. 2001/003484 and Beery hereinafter), in view of Routtenberg et al., (U.S. Publication No. 2002/0049717 and Routtenberg hereinafter).

Regarding claim 1, Beery discloses a processing system comprising:

a generation processor at a first computer to receive an original software product and to provide a first version of the software having a limited functionality (i.e., in the first version of the software, all data or software found by using a network, downloaded, purchased, or acquired by other means is stored without a missing data chunk) and a second version of the software having increased functionality which is dependent upon and utilizes security-related attributes of the computer on which the software is to be executed (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Beery does not expressly disclose a version initiator for initiating the execution of the second version in the place of the first version.

However, Routtenberg discloses:

an execution processor at the second computer, adapted to receive the versions of the software from the first computer, comprising:

an assessor for identifying, prior to execution of the first version, the security-related attributes of the second computer, version initiator for initiating the execution of the second version in the place of the first version if the security-related attributes of the second computer supports the increased functionality of the second version during which the security-related attributes of the second computer are utilized, and a code processor for executing the version of the software to be executed (i.e., the user utilized

the content access device 104 to select particular content files and decide whether to purchase, rent, or reject the file)(Pages 5, Par 0035-0036).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery with the teachings of Routtenberg because it would allow to include a version initiator for initiating the execution of the second version in the place of the first version with the motivation to provide for a digital content distribution system that allows digital content to be distributed using relatively new technologies such as the Internet while providing copyright owners and content distributors with protection against widespread unauthorized copying and providing the ability to collect fees for distributed content (Routtenberg, Page 4, Par. 0023).

Regarding claim 2, Beery discloses a generation processor at a first computer to receive an original software product and to provide a first version of the software having a limited functionality (i.e., in the first version of the software, all data or software found by using a network, downloaded, purchased, or acquired by other means is stored without a missing data chunk) and second version of the software having increased functionality which is dependent upon and utilizes security-related attributes of the computer on which the program is to be executed (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Beery does not expressly disclose a version initiator for initiating the execution of the second version in the place of the first version.

However, Routtenberg discloses whereby an execution processor at the second computer may receive the versions of the software from the first computer, identify, prior to execution of the first version, the security-related attributes of the second computer, initiate the execution of the second version in the place of the first version if the security-related attributes of the second computer supports the increased functionality of the second version during which the security-related attributes of the second computer are utilized, and execute the version of the software to be executed (i.e., the user utilized the content access device 104 to select particular content files and decide whether to purchase, rent, or reject the file)(Pages 5, Par 0035-0036).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery with the teachings of Routtenberg because it would allow to include a version initiator for initiating the execution of the second version in the place of the first version with the motivation to provide for a digital content distribution system that allows digital content to be distributed using relatively new technologies such as the Internet while providing copyright owners and content distributors with protection against widespread unauthorized copying and providing the ability to collect fees for distributed content (Routtenberg, Page 4, Par. 0023).

Regarding claim 7, Beery discloses wherein the generator adds logic into the versions to use the security-related attributes of the computer on which the software is to be executed (Page 2, Par. 0023-0024).

Regarding claim 9, Beery discloses wherein the generator modifies the system-level behavior of the software (i.e., collecting information on the delivered product such as serial number, registration data tags, and the missing data chunk)(Page 2, Par. 0024).

Regarding claim 10, Beery discloses wherein the generator modifies the file input/output resources used by the software (i.e., collecting information on the user such as name, address, and email address; and on the delivered product such as serial number, registration data tags, and the missing data chunk)(Page 2, Par. 0024).

Regarding claim 11, Beery discloses wherein the generator modifies the user-machine interface used by the software (i.e., collecting information on the user's environment such as hardware characterization data, bios, and Ethernet address)(Page 2, Par. 0024).

Regarding claim 12, Beery discloses wherein the generator modifies the operating system resources as used by the application (Page 4, Par. 0040).

Regarding claim 13, Beery discloses wherein the generator creates proxies (i.e., a generator/processor that controls access to resources by collecting the information and sending them to the server/content owner)(Page 3-4, Par. 0037-0040).

Regarding claim 14, Beery discloses an execution processor at a second computer for receiving from a first computer, a software product for execution on the second computer in the form of a first version of the software having a limited functionality (i.e., in the first version of the software, all data or software found by using a network, downloaded, purchased, or acquired by other means is stored without a missing data chunk) and a second version of the software having increased functionality which is dependent upon and utilizes security-related attributes of the computer on which the program is to be executed (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Beery does not expressly disclose a version initiator for initiating the execution of the second version in the place of the first version.

However, Routtenberg discloses the execution processor comprising:
an assessor for identifying, prior to execution of the first version, the security-related attributes of the second computer, a version initiator for initiating the execution of the second version in the place of the first version if the security-related attributes of the second computer supports the increased functionality of the second version during which the security-related attributes of the second computer are utilized, and a code

processor for executing the version of the software to be executed (i.e., the user utilized the content access device 104 to select particular content files and decide whether to purchase, rent, or reject the file)(Pages 5, Par 0035-0036).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery with the teachings of Routtenberg because it would allow to include a version initiator for initiating the execution of the second version in the place of the first version with the motivation to provide for a digital content distribution system that allows digital content to be distributed using relatively new technologies such as the Internet while providing copyright owners and content distributors with protection against widespread unauthorized copying and providing the ability to collect fees for distributed content (Routtenberg, Page 4, Par. 0023).

Regarding claim 15, Beery discloses wherein the security-related attribute of the second computer on which the second version depends comprises an attribute of the environment in which the second computer executes programs (i.e., the computing device environment)(Page 5, Par. 0047).

Regarding claim 16, Beery discloses wherein the presence or absence of the attribute is used in conjunction with other attributes to compute a figure of merit which determines whether the second version can be executed (i.e., all data or software found by using a network, downloaded, purchased, or acquired by other means is stored

without a missing data chunk which is considered first version of the software. Then the security-related attributes are checked and if the user's machine is successfully authenticated, the second version, the working version with the missing chunk is downloaded)(Pages 4-6, Par 0040-0049).

Regarding claim 20, Beery discloses wherein the attribute comprises the presence of an authenticable security capability on a network coupled to the second computer (Page 2, Par. 0022).

Regarding claim 21, Beery discloses wherein the attribute comprises the presence or absence of software for execution on the second computer (Pages 4-5, Par. 0040-0049).

Regarding claim 23, Beery discloses wherein the attribute comprises the presence or absence of local storage with pre-determined attributes (i.e., information such as hardware characterization data, bios, Ethernet address, serial number, registration data tags, and the missing data chunk must be present for registration/authentication)(Page 2, Par. 0023-0024).

Regarding claim 24, Beery discloses wherein the attribute comprises the presence or absence of a network connection (Page 2, Par. 0020).

Regarding claim 25, Beery discloses wherein the attribute comprises the presence or absence of a user certificate (i.e., a user certificate includes personal information such as name, address, and e-mail address)(Page 4, Par. 0040).

Regarding claim 27, Beery discloses wherein the attribute comprises the presence or absence of a currently valid logon session with an identified user (i.e., user session is started by user sending personal information to the server to be authenticated based on defined criteria and information in the registration database)(Page 4, Par. 0040).

Regarding claim 28, Beery discloses wherein the attribute comprises the presence or absence of an "always-on" network connection (Page 2, Par. 0020).

Regarding claim 29, Beery discloses wherein the attribute comprises evidence of registration of the upgraded program for the second computer (Page 4, Par. 0038-0040).

Regarding claim 33, Beery discloses wherein the attribute comprises the presence or absence of a connection to the Internet (Page 2, Par. 0020).

Regarding claim 34, Beery discloses wherein the attribute comprises an independent authentication for user identification (Page 3, Par. 0025).

Regarding claim 35, Beery discloses wherein the second computer initially installs only the first version from the first computer (i.e., in the first version of the software, all data or software found by using a network, downloaded, purchased, or acquired by other means is stored without a missing data chunk) and the version initiator installs the second version of the software and executes it only if the security-related attributes of the second computer supports its increased functionality (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Regarding claim 36, Beery discloses wherein the receipt of the second version requires the security-related attributes of the second computer to be utilized (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Regarding claim 37, Beery discloses wherein the second version is encrypted (Page 2, Par. 0021-0022).

Regarding claim 41, Beery discloses a method of selectively controlling the functionality of a software product, the method comprising the steps of:

generating, at a first computer, a first version of the software having a limited functionality (i.e., in the first version of the software, all data or software found by using a network, downloaded, purchased, or acquired by other means is stored without a missing data chunk) and a second version of the software having increased functionality which is dependent upon and utilizes security-related attributes of the computer on which the program is to be executed, receiving the versions of the software from the first computer, at a second computer for execution thereon, identifying, prior to execution of the first version, the security-related attributes of the second computer (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Beery does not expressly disclose a version initiator for initiating the execution of the second version in the place of the first version.

However, Routtenberg discloses initiating the execution of the second version in the place of the first version if the security-related attributes of the second computer supports the increased functionality of the second version during which the security-related attributes of the second computer are utilized; and executing the version of the software to be executed (i.e., the user utilized the content access device 104 to select particular content files and decide whether to purchase, rent, or reject the file)(Pages 5, Par 0035-0036).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery with the teachings of

Routtenberg because it would allow to include a version initiator for initiating the execution of the second version in the place of the first version with the motivation to provide for a digital content distribution system that allows digital content to be distributed using relatively new technologies such as the Internet while providing copyright owners and content distributors with protection against widespread unauthorized copying and providing the ability to collect fees for distributed content (Routtenberg, Page 4, Par. 0023).

Regarding claim 42, Beery discloses a computer-readable medium for storing computer executable instructions which, when executed by a processor in a first computer, cause the processor to:

receive an original software product and to provide a first version of the software having a limited functionality (i.e., in the first version of the software, all data or software found by using a network, downloaded, purchased, or acquired by other means is stored without a missing data chunk) and a second version of the software having increased functionality which is dependent upon and utilizes security related attributes of the computer on which the program is to be executed, whereby an execution processor at the second computer may receive the versions of the software from the first computer, identify, prior to execution of the first version, the security-related attributes of the second computer (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Beery does not expressly disclose a version initiator for initiating the execution of the second version in the place of the first version.

However, Routtenberg discloses:

initiate the execution of the second version in the place of the first version if the security-related attributes of the second computer supports the increased functionality of the second version during which the security-related attributes of the second computer are utilized and execute the version of the software to be executed (i.e., the user utilized the content access device 104 to select particular content files and decide whether to purchase, rent, or reject the file)(Pages 5, Par 0035-0036).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery with the teachings of Routtenberg because it would allow to include a version initiator for initiating the execution of the second version in the place of the first version with the motivation to provide for a digital content distribution system that allows digital content to be distributed using relatively new technologies such as the Internet while providing copyright owners and content distributors with protection against widespread unauthorized copying and providing the ability to collect fees for distributed content (Routtenberg, Page 4, Par. 0023).

Regarding claim 43, Beery discloses a computer-readable medium for storing computer executable instructions which, when executed by a processor in a second computer, cause the processor to:

receive from a first computer, a software product for execution on the second computer in the form of a first version of the software having a limited functionality (i.e., in the first version of the software, all data or software found by using a network, downloaded, purchased, or acquired by other means is stored without a missing data chunk) and a second version of the program having increased functionality which is dependent upon and utilizes security-related attributes of the computer on which the program is to be executed (i.e., second version of the software is the working version including the missing chunk of the first version which is provided after proper authentication of the user/user's machine)(Pages 4-6, Par 0040-0049).

Beery does not expressly disclose a version initiator for initiating the execution of the second version in the place of the first version.

However, Routtenberg discloses:

identify, prior to execution of the first version, the security-related attributes of the second computer, initiate the execution of the second version in the place of the first version if the security-related attributes of the second computer supports the increased functionality of the second version during which the security-related attributes of the second computer are utilized; and execute the version of the software to be executed (i.e., the user utilized the content access device 104 to select particular content files and decide whether to purchase, rent, or reject the file)(Pages 5, Par 0035-0036).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery with the teachings of Routtenberg because it would allow to include a version initiator for initiating the

execution of the second version in the place of the first version with the motivation to provide for a digital content distribution system that allows digital content to be distributed using relatively new technologies such as the Internet while providing copyright owners and content distributors with protection against widespread unauthorized copying and providing the ability to collect fees for distributed content (Routtenberg, Page 4, Par. 0023).

Claims 3-6, 8, 17-19, 30-32, and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beery, (U.S. Publication No. 2001/003484 and Beery hereinafter), in view of Routtenberg et al., (U.S. Publication No. 2002/0049717 and Routtenberg hereinafter), and further view of Brody, (U.S. Publication No. 2001/0051928 and Brody hereinafter).

Regarding claim 3, Beery or Routtenberg does not expressly disclose comprising: a mapper for generating a map of the functions of the original software product into versions of the software.

However, Brody discloses a mapper for generating a map of the functions of the original software product into versions of the software (i.e., customer personal information 304 is input along with source modules 310 to a build step 312, which results in the output of personalized executable modules 314, which constitute the deliverable software, and in a step 316, personalized executable modules 314 are delivered to the customer)(Pages 12-13, Par. 0098-0105).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include a mapper for generating a map of the functions of the original software product into versions of the software with the motivation to provide for a deliverable published software protected solely by the personalization be operational in substantially identical functional form at all times, all places, and for unrestricted use (Brody, Page 12, Par. 0097).

Regarding claim 4, Beery or Routtenberg does not expressly disclose comprising: a generator for generating the versions of the software in accordance with a map of the functions of the original software product into versions of the software.

However, Brody discloses a generator for generating the versions of the software in accordance with a map of the functions of the original software product into versions of the software (i.e., customer personal information 304 is input along with source modules 310 to a build step 312, which results in the output of personalized executable modules 314, which constitute the deliverable software, and in a step 316, personalized executable modules 314 are delivered to the customer)(Pages 12-13, Par. 0098-0105).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include a mapper for generating a map of the functions of the original software product into versions of the software with the motivation to provide for a deliverable published software protected solely by the

personalization be operational in substantially identical functional form at all times, all places, and for unrestricted use (Brody, Page 12, Par. 0097).

Regarding claim 5, Beery or Routtenberg does not expressly disclose wherein the generator inserts logic into the versions for determining the security-related attributes of the computer on which the software is to be executed.

However, Brody discloses wherein the generator inserts logic into the versions for determining the security-related attributes of the computer on which the software is to be executed (Pages 12-13, Par. 0098-0105).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the generator inserts logic into the versions for determining the security-related attributes of the computer on which the software is to be executed with the motivation to distinguish one computer from another for identification and usage control purposes, such as via a discriminator in a software application (Brody, Page 9, Par. 0058).

Regarding claim 6, Beery or Routtenberg does not expressly disclose wherein the logic is incorporated in a dynamic link library.

However, Brody discloses wherein the logic is incorporated in a dynamic link library (Page 15, Par. 0131-0133).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the logic is incorporated in a dynamic link library with the motivation to provide for transforming source modules into executable modules (Brody, Page 15, Par. 0132).

Regarding claim 8, Beery or Routtenberg does not expressly disclose wherein the logic is incorporated in a dynamic link library.

However, Brody discloses wherein the logic is incorporated in a dynamic link library (Page 15, Par. 0131-0133).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the logic is incorporated in a dynamic link library with the motivation to provide for transforming source modules into executable modules (Brody, Page 15, Par. 0132).

Regarding claim 17, Beery or Routtenberg does not expressly disclose wherein the attribute comprises the presence or absence of an adjunct device on the second computer.

However, Brody discloses wherein the attribute comprises the presence or absence of an adjunct device on the second computer (i.e., smart card reader)(Page 2, Par. 0012).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the attribute comprises the presence or absence of an adjunct device on the second computer with the motivation to provide for a deliverable published software protected solely by the personalization be operational in substantially identical functional form at all times, all places, and for unrestricted use (Brody, Page 12, Par. 0097).

Regarding claim 18, Beery or Routtenberg does not expressly disclose wherein the adjunct device is tamper-resistant.

However, Brody discloses wherein the adjunct device is tamper-resistant (i.e., it is difficult to physically copy the smart-card or the hardware key that is associated with the software, and the fact that such devices can employ cryptographic methods offering reasonable security levels)(Page 2, Par. 0012).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the adjunct device is tamper-resistant with the motivation to provide for controlling usage and protecting the software from unauthorized use (Brody, Page 2, Par. 0012).

Regarding claim 19, Beery or Routtenberg does not expressly disclose wherein the adjunct device is a dongle.

However, Brody discloses wherein the adjunct device is a dongle (Page 2, Par. 0012).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the adjunct device is a dongle with the motivation to provide for controlling usage and protecting the software from unauthorized use (Brody, Page 2, Par. 0012).

Regarding claim 30, Beery or Routtenberg does not expressly disclose wherein the attribute comprises the presence or absence of a cryptographic co-processor.

However, Brody discloses wherein the attribute comprises the presence or absence of a cryptographic co-processor (i.e., smart card reader)(Page 2, Par. 0012).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the attribute comprises the presence or absence of a cryptographic co-processor with the motivation to provide for controlling usage and protecting the software from unauthorized use (Brody, Page 2, Par. 0012).

Regarding claim 31, Beery or Routtenberg does not expressly disclose wherein the attribute comprises the presence or absence of a smart card reader adapted to be coupled with a smart card.

However, Brody discloses wherein the attribute comprises the presence or absence of a smart card reader adapted to be coupled with a smart card (Page 2, Par. 0012).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the attribute comprises the presence or absence of a smart card reader adapted to be coupled with a smart card with the motivation to provide for controlling usage and protecting the software from unauthorized use (Brody, Page 2, Par. 0012).

Regarding claim 32, Beery or Routtenberg does not expressly disclose wherein the attribute comprises the presence or absence of a smart card coupled to the second computer through a smart card reader.

However, Brody discloses wherein the attribute comprises the presence or absence of a smart card coupled to the second computer through a smart card reader (Page 2, Par. 0012).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include wherein the attribute

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comprises the presence or absence of a smart card coupled to the second computer through a smart card reader with the motivation to provide for controlling usage and protecting the software from unauthorized use (Brody, Page 2, Par. 0012).

Regarding claim 39, Beery or Routtenberg does not expressly disclose wherein the version initiator makes use of metadata files.

However, Brody discloses wherein the version initiator makes use of metadata files (i.e., configuration file)(Page 7, Par. 0039).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include the metadata files are require the security-related attributes of the second computer to be utilized with the motivation to distinguish one computer from another for identification and usage control purposes, such as via a discriminator in a software application (Brody, Page 9, Par. 0058).

Regarding claim 40, Beery or Routtenberg does not expressly disclose wherein the metadata files are require the security-related attributes of the second computer to be utilized.

However, Brody discloses wherein the metadata files are require the security-related attributes of the second computer to be utilized (i.e., configuration file)(Page 7, Par. 0039).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Brody because it would allow to include the metadata files are require the security-related attributes of the second computer to be utilized with the motivation to distinguish one computer from another for identification and usage control purposes, such as via a discriminator in a software application (Brody, Page 9, Par. 0058).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beery, (U.S. Publication No. 2001/003484 and Beery hereinafter), in view of Routtenberg et al., (U.S. Publication No. 2002/0049717 and Routtenberg hereinafter), and further view of Preisler et al., (U.S. Patent No. 5,675,803 and Preisler hereinafter).

Regarding claim 22, Beery or Routtenberg does not expressly disclose wherein the software comprises a run-time debugger.

However, Preisler discloses wherein the software comprises a run-time debugger (Col. 5, lines 4-67 and Col. 6, lines 1-65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Preisler because it would allow to include a run-time debugger with the motivation to provide data to permit the correct resetting of registers and globalize static variables to facilitate correct program restart without requiring relinking and

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reloading the program or restarting the entire debug session (Preisler, Col. 3, lines 1-12).

Claims 26, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beery, (U.S. Publication No. 2001/003484 and Beery hereinafter), in view of Routtenberg et al., (U.S. Publication No. 2002/0049717 and Routtenberg hereinafter), and further view of Cooper et al., (U.S. Publication No. 2001/0051996 and Cooper hereinafter).

Regarding claim 26, Beery or Routtenberg does not expressly disclose wherein the user certificate is an X.509 certificate.

However, Cooper discloses wherein the user certificate is an X.509 certificate (Pages 7-8, Par. 0094-0110).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Cooper because it would allow to include an X.509 certificate with the motivation to provide for authenticating users and allowing user to search for and select content to be downloaded (Cooper, Page 2, Par. 0019).

Regarding claim 38, Beery or Routtenberg does not expressly disclose wherein the second version is accessed at a URL which is encrypted.

However, Cooper discloses wherein the second version is accessed at a URL which is encrypted (Page 2, Par. 0034 and Page 13, Par. 0198-0200 and Page 16, Par. 250).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Beery and Routtenberg with the teachings of Cooper because it would allow to include downloading the digital content as an encrypted URL with the motivation to provide for authenticating users and allowing user to search for and select content to be downloaded (Cooper, Page 2, Par. 0019).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Bachand et al., (U.S. Patent No. 6,101,607), and
Freund, (U.S. Patent No. 5,987,611).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arezoo Sherkat whose telephone number is (703) 305-8749. The examiner can normally be reached on 8:00-4:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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